## 2008 LISTING OF OPINIONS ISSUED BY THE ATTORNEY GENERAL STATE OF HAWAII

OBINION NO	
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(Date Issued)	DIGEST
08-1	Random drug testing of teachers. Implementation of bargained for
(August 1, 2008)	suspicionless random drug testing of public school teachers is constitutional
	and would not violate federal or state constitutional provisions, if adequate
	and appropriate procedural protections are put in place. The teachers'
	union agreed to such random drug testing in the collective bargaining
	agreement that was ratified by a vote of the full membership. See Bolden v.
	Southeastern Pennsylvania Transportation Authority, 953 F.2d 807 (3d Cir.
	1991), cert. denied, 504 U.S. 943 (1992). Public education in Hawaii is
	heavily regulated. Hawaii courts have upheld drug testing of police officers
	(random) and firefighters (as part of annual physical) in McCloskey v.
	HPD, 71 Haw. 568, 799 P.2d 953 (1990) and Doe v. City & County of
	Honolulu, 8 Haw. App. 571, 816 P.2d 306 (1991), respectively. If a court
	were to find this drug testing program of teachers unconstitutional, the
	doctrines of qualified immunity, both federal and state, would shield state
	officials from any personal liability. See Wilson v. Layne, 526 U.S. 603
	(1999) (citing Harlow v. Fitzgerald, 457 U.S. 800 (1982) and Towse v.
	State, 64 Haw. 624, 647 P.2d 696 (1982).